

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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In re ACCREDO HEALTH, INC.  
SECURITIES LITIGATION

Civil Action No. 03-CV-2216-BBD

This Document Relates To:

CLASS ACTION

ALL ACTIONS

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**DEFENDANTS' *DAUBERT* MOTION TO EXCLUDE THE EXPERT OPINIONS  
AND TESTIMONY OF MERCER BULLARD**

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Defendants Accredo Health, Inc. ("Accredo"), David D. Stevens, and Joel R. Kimbrough (collectively, "Defendants"), respectfully file this Motion pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993) and move to exclude the expert reports and testimony of Plaintiffs' designated expert, Professor Mercer Bullard. As fully set forth in Defendants' Memorandum in Support of Their *Daubert* Motion to Exclude the Expert Opinions and Testimony of Mercer Bullard, filed contemporaneously herewith, the Court should exclude all expert analysis, opinions and testimony provided by himself in this matter.

The purported expert opinions and related testimony provided by Professor Bullard are inadmissible under the Federal Rules of Evidence, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579(1993), and *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137(1999) for the following three reasons:

- The Bullard Reports and related testimony provide irrelevant information because purported SOX violations are neither discussed nor alleged in the Complaint;
- The Bullard Reports and related testimony are impermissible legal conclusions; and
- The Bullard Reports and related testimony are not reliable, are misleading, and will confuse the trier of fact, unequivocally rendering them more prejudicial than probative in violation of Fed. R. Evid. 403.

Accordingly, Defendants request that this Court enter an Order striking the Expert Report of Professor Bullard and his Rebuttal Report (collectively the “Reports”) and precluding Professor Bullard from providing any testimony, either in-person or by deposition, regarding the analysis and opinions embodied in the Reports.

Respectfully submitted this 8th day of September, 2008.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was forwarded *via* the Court's electronic filing system, this 8th day of September, 2008 to:

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